

REMARKS

This is in response to the Office Action mailed on September 20, 2005. Claims 1-39, 47 and 50-54 were pending in that action. Claims 1-4, 6-39, 47 and 51-54 were rejected. Claims 5 and 50 were objected to. With this response, claims 1 and 47 are amended. Claims 51 and 52 are canceled. The remaining claims are unchanged.

In this case, on October 1, 2004, Applicant received a first Office Action wherein the only substantive rejection based on cited prior art was against claims 40-48. On pages 8-11 of that Office Action, the Examiner provided Applicant with instructions as to how minor adjustments could be made to place claims 1-39 and 49-54 in condition for allowance. In reliance on this indication of allowable subject matter, Applicant prepared and filed a response on November 23, 2004. In this response, Applicant cancelled all substantively rejected claims, and, for the remaining claims, addressed all noted hindrances to allowability. In addition, it is at least worth noting that Applicant also filed additional patent applications that incorporated assumptions based on the Examiner's comments in the Office Action of October 1, 2004.

Contrary to the Examiner's representations up to that point, Applicant received an Office Action on April 28, 2005, which essentially revoked the previous indication that claims 1-39 are in allowable form, and established a substantive rejection against those claims. Notably, every reference cited against the claims in the April 28 Office Action was noted without rejection in the previous Office Action of October 1, 2004. Further, in the April 28 Office Action, the Examiner indicated that claims 47 and 50-54 were in allowable form. Claims 4 and 5 were objected to as being dependent upon a rejected base claim, but there was an

indication that these claims would be allowable if re-written in independent form including intervening limitations.

Now, with this latest Office Action of September 20, 2005, the Examiner has once again submitted a rejection of previously allowed claims. This has occurred despite the fact that Applicant made no significant amendments to the claims in the last response. In this latest Office Action, it is now only claims 5 and 50 that have been objected to and noted as potentially allowable.

The present application has now been in prosecution for more than a year. Twice claims have been allowed only to have the allowance withdrawn after Applicant has relied on, and reacted to, the indications of allowability. As Applicant pointed out in the last response, §706.04 of the Manual of Patent Examining Procedure (M.P.E.P.) mandates that great care should be exercised in submitting a rejection of previously allowed claims. Applicant is at a loss to understand why the present rejection was not previously established. Regardless, the Examiner has left Applicant with no other alternative but to respond to the latest rejection of claims.

On page 2 of the Office Action, the Examiner objected to claims 47 and 50 on the basis of a minor typographical error that is presently remedied by amendment to claim 47. Reconsideration and withdrawal of the objection are respectfully solicited.

On pages 2-3 of the latest Office Action, claims 1-39, 47 and 50 were rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. With the present response, Applicant has amended these claims to reflect an environment that includes a claimed computer readable medium encoded with instructions that, when executed, support specifically claimed functional interrelationships. It is respectfully submitted that all claims, at least as amended, are

in clear conformance with the standards of §101. Reconsideration and withdrawal of the rejection under §101 are respectfully solicited.

Applicant hereby affirms the indication on page 13 of the latest Office Action that claims 47 and 50 would be allowable if re-written or amended to overcome the noted rejections under 35 U.S.C. §101. As has been discussed, Applicant believes that all §101 rejections have been overcome by the present amendments.

Thus, reconsideration and allowance of claims 47 and 50 are respectfully solicited. Further, Applicant also affirms the indication 13 that claim 5 would be allowable if re-written. At this time, Applicant has not re-written that claim based on a belief, to be described below, that the base and intervening claims also contain allowable subject matter.

Beginning on page 3 and running through the top of page 11 of the latest Office Action, claims 1-3, 6, 7, 10-39, 51 and 52 are rejected under 35 U.S.C. §102(b) as being anticipated by Sun Microsystems ("Java Speech API Programmer's Guide"), herein referred to as the "Sun" reference.

Claim 1 recites a middleware layer configured to facilitate communication between a speech-related application and a speech-related engine. As claimed, the middleware layer includes a speech component having an application-independent interface and an engine-independent interface. The claimed application-independent interface is configured to be coupled to the application. The claimed engine-independent interface is configured to be coupled to the engine. With the present amendment, claim 1 has been amended to reflect the fact that the application-independent interface and the engine-independent interface are different interfaces.

The concept of a speech middleware component appears in Applicant's specification at least at FIG. 2 and is described at least in the section that begins on page 12 at line 11. As is

generally indicated in FIG. 2, an interface between component 204 and applications 202 is different than an interface between component 204 and engines 208/206. This separation of the interfaces enables services to be performed for applications and/or engines in a particularly efficient and effective manner.

Examples of services that leverage both interfaces are described in various locations throughout Applicant's specification. In general, the middleware component 204 can be configured to perform many services previously performed by a particular application or engine. Further, middleware component 204 is configured to perform services in a very flexible manner that is generally application-independent and engine-independent.

Those skilled in the art will appreciate that a software interface is, generally speaking, a boundary across which two independent entities meet, and interact or communicate with each other. In accordance with claim 1, the interface across which the middleware layer communicates with an engine is different than the interface across which it communicates with an application. In other words, there is a separate and independent interface for engines and a separate and independent interface for applications.

In contrast, the Sun reference describes a single Java Speech API embodied as a unified software interface. At least Chapter 4 of the Sun reference makes it very clear that there is a single interface (i.e., the Java Speech API) positioned between an engine and an application. An engine operating within a system consistent with the Sun reference must provide "a true implementation of the Java classes and interfaces defined by the API" (see Section 4.1). Applications then leverage the functionality of engines by leveraging the same Speech API interface (see examples of application method calls scattered throughout Chapter 4, as well as other locations within the reference).

It is also worth pointing out that, in the rejection of claim 1, the Examiner points to the Java Speech API as being both the claimed engine-independent interface and the claimed application-independent interface. In order to re-emphasize the claimed distinction, Applicant has amended claim 1 to make it very clear that the application-independent interface is different than the engine-independent interface.

For at least these reasons, it is respectfully submitted that the Sun reference fails to teach or suggest the elements of claim 1. Reconsideration and allowance of claim 1 are respectfully solicited.

Claims 2, 3, 6, 7 and 10-39 are dependent claims that are dependent, either directly or indirectly, on independent claim 1. It is respectfully submitted that these dependent claims are in allowable form at least for their dependency on what Applicant believes to be an allowable independent claim. In other words, claim 2, 3, 6, 7 and 10-39 are believed to be in allowable form at least for the same reasons that independent claim 1 is believed to be in allowable form.

With the present response, claims 51 and 52 are canceled.

On pages 11-13 of the Office Action, the Examiner rejected claims 4, 8, 9, 53 and 54 under 35 U.S.C. §103(a) as being unpatentable over the Sun reference in view of "Official Notice." With regard to the noted claim elements that are not shown in the Sun reference, Applicant hereby traverses any attempt to take official notice. In accordance with M.P.E.P. §2144, Applicant specifically requests a prior art demonstration of the recited claim features. Without such a demonstration of prior art, there can be no *prima facie* case of obviousness. Without such a showing, the rejection is improper and should be withdrawn.

With regard to claims 4, 8 and 9 it is respectfully submitted that these claims are believed to be in allowable form

at least for their reliance on what Applicant believes to be an allowable independent claim (see discussion of independent claim 1 above).

In summary, it is respectfully submitted that claims 1-39, 47, 50, 53 and 54 are in condition for allowance. Reconsideration and allowance of these claims are respectfully solicited. The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: 

Christopher L. Holt, Reg. No. 45,844
Suite 1400 - International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

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